

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

February 28, 2000

D030273 Woodglen Pacific, Ltd., et al. v. Cayman Investment Corp., et al.
Judgment affirmed. Haller, J.; We Concur: Work, Acting P.J., Huffman, J.

D032663 People v. Houck
D032892 People v. Houck

(Consolidated) The judgments are affirmed, except as to the true findings on the allegations that Houck's 1983 conviction for assault with a deadly or dangerous weapon constituted a strike for purposes of the Three Strikes law, which are reversed. The sentences are vacated and the matters are remanded for retrial of the truth of such allegations, in a single proceeding, and for resentencing. McIntyre, J.; We Concur: Kremer, P.J., Benke, J.

Court convened at 10:30a.m.

Present: The Honorable Daniel J. Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller
Deputy Clerk: W. Pasek

D032381 Lear et al. v. Board of Retirement of the San Diego County Employees Retirement Association et al.
Cause called on merits. Miriam E. Brewster, Deputy Counsel, argued for appellant. Robert C. Fellmeth, Esq. argued for respondent. Ms. Brewster replied. Cause submitted.

Court adjourned at 11:00a.m.

D032296 People v. Taylor
The petition for rehearing is denied.

D034456 In re Monique P., a Juvenile
Appellant's motion to vacate dismissal and reinstate appeal is granted. This court's order of January 27, 2000, dismissing the above-entitled appeal is vacated and the appeal is reinstated. Appellant is relieved from default for failure to timely file the appellant's opening brief.

Appellant's request for appointment of counsel is denied.

Appellant is granted 30 days from the date of this order to file her opening brief.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

February 28, 2000 (Continued)

D034715 Genzler v. Superior Court of San Diego County/The People

Let a peremptory writ issue directing Judge Heumann to vacate his order granting and denying in part the motion to disqualify and to enter a new order denying the motion in its entirety. The stay previously imposed shall remain in effect until the finality of this opinion as to this court.

D032030 Effie May, Inc. v. County of San Diego

The request for publication of the opinion is denied.

D035029 Houessankhani v. County of San Diego

Pursuant to California Rules of Court, rule 10(c), the appeal filed January 7, 2000, is dismissed for appellant's failure to timely designate the record. (Cal. Rules of Court, rules 4(a) and 5(a).)

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

February 29, 2000

D034996 People v. Pham

In that the certificate of probable cause was denied, appellant may not challenge his plea. It is unclear whether appellant wishes to seek review of his sentence. The appeal is dismissed without prejudice to reinstatement should appellant notify the court of his intention to challenge only his sentence within 15 days of the date of this order.

D033846 People v. Jurgensen

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 38.)

D032240 People v. Shelley

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Haller, J.

D030860 Balog v. Becton Dickinson and Company et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. Kremer, P.J.; We Concur: Benke, J., Haller, J.

D034297 In re James O., a Juvenile

The order of the juvenile court is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

D032627 People v. Giles

The judgment is reversed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D032020 People v. Rivera

The judgment is affirmed. Nares, J.; We Concur: Work, Acting P.J., O'Rourke, J.

D033602 In re Vanessa S., et al., Juveniles

D033854 In re Vanessa S., et al., Juveniles

(Consolidated) We reverse the juvenile court orders denying the section 388 petition without an evidentiary hearing and terminating parental rights. We remand the matters for further proceedings in accordance with this opinion. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

D032641 In re Jose R., a Juvenile

The order is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

February 29, 2000 (Continued)

D033741 Brammell v. Ramona Municipal Water District et al.

D035016 Brammell v. Clark et al.

Appellant's unopposed motion to consolidate the above-numbered appeals is granted. All future documents will be filed under D033741. Appellant's opening brief is due 30 days after the filing of the record in D035016.

D030982 People v. Lorenzo et al.

Appellant Marco A. Valadez's motion to recall the remittitur, vacate the dismissal, and reinstate the appeal is granted.

The Clerk of the Superior Court is directed to return the remittitur which issued on January 5, 1999, to this court on or before March 6, 2000. Attorney Kenneth Carroll is relieved as attorney of record and Beatrice C. Tillman, of Appellate Defenders, Inc. is appointed for appellant Marco Valadez. This case will be an Appellate Defenders, Inc. staff case.

Appellant's opening brief is due April 10, 2000.

D033867 Maxwell v. City of San Diego

In that the notice of appeal is untimely filed, the appeal is dismissed. The motions for judicial notice, for calendar preference, to advance cause on calendar, for sanctions, to set aside and vacate the judgment of dismissal, to modify the judgment or orders and for reversal, for factual determination on appeal and for extension of time are denied as moot.

D035091 People v. Johnson

The denial of a Penal Code section 995 motion is not appealable. (Pen.Code, sec. 999a.) The appeal is dismissed.

D033770 On-Point Technology Systems, Inc. v. Solutioneering, Inc. et al.

Appellant has failed to notify this court by letter of the progress of the bankruptcy proceedings as directed by this court on August 5, 1999.

The appeal is dismissed as abandoned.

D031180 Maides et al., v. Ralphs Grocery Company

The petition for rehearing is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

February 29, 2000 (Continued)

D032580 People v. Giacomaro

The petition for rehearing is denied.

D034964 In re Moore on Habeas Corpus

The petition is denied.

**D035137 San Diego Refrigerated Services, Inc., et al. v. Superior Court of San Diego
County/Redevelopment Agency of the City of San Diego**

The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 1, 2000

D030557 People v. Dibernardo

The petition for rehearing is granted. The Attorney General is directed to respond to arguments in appellant's petition for rehearing not later than March 22, 2000.

D030347 In re Marriage of Sukumar

The petition for rehearing is denied.

D031568 Ivey v. California Casualty Insurance Company

On the court's own motion, rehearing is granted. The opinion is refiled this date.

D035003 In re Stafford on Habeas Corpus

The petition is denied.

D032140 People v. Gomez

The conviction for possession of methamphetamine is reversed. The trial court is directed to amend the abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Benke, J.

D030812 People v. Luna

Affirmed. Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D030452 Centex Golden Construction Company v. Dale Tile Company

Judgment affirmed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

D032041 Loguercio v. United Air Lines

The judgment is affirmed. Huffman, J.; We Concur: Work, Acting P.J., Benke, J.

D033091 Iaea v. Pacific Metals and Manufacturing, Inc., et al.

The judgment is affirmed. Wagner, J. (assigned); We Concur: Benke, Acting P.J., Huffman, J.

D028822 West Coast General Corporation v. Redevelopment Agency of the City of San Diego

Judgment affirmed. Benke, Acting P.J.; I Concur: Haller, J.; I Concur in the result: Huffman, J.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 1, 2000 (Continued)

D030296 Chopra v. Schoville et al.

The judgment is reversed and remanded with respect to plaintiff's first three causes of action; in all other respects the judgment is affirmed. Each party to bear its own costs of appeal. Benke, J., I Concur: Work, J, Concurring and Dissenting (Opinion), Haller, J.

In re the Marriage of Ziegler

The petition for rehearing is denied.

D035149 Kite v. Superior Court of San Diego County/Kite

The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 2, 2000

D030451 MCB Realty Services, Inc. v. El Rancho Del Pomerado Partnership et al.
D030735 MCB Realty Services, Inc. v. El Rancho Del Pomerado Partnership et al.
The petition for rehearing is denied.

**D034823 R. Bruce Kleege et al. v. Superior Court of San Diego County/Georg
Lingenbrink et al.**
The petition is denied.

D034680 In re Handy on Habeas Corpus
The petition is denied.

D031390 City of San Diego v. Lumen Hospitality LLC
The judgment is affirmed. Kremer, P.J.; We Concur: Work, J., Huffman, J.

D034486 In re Valenzuela on Habeas Corpus
The petition is denied.

D030391 Aroma Manufacturing Co. v. Employers Insurance of Wausau et al.
The judgment is reversed and the matter remanded to the trial court with directions to enter judgment for appellant. Appellant is entitled to costs on appeal. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D034394 Lynda Claire Hoffman, et al, v. Dunham and Associates Mortgage Fund,
LTD et al. JoAnn MacKenzie**
Upon written stipulation filed by Dunham and Associates Mortgage Fund and JoAnn MacKenzie, the appeal by Dunham and Associates Mortgage Fund as to JoAnn MacKenzie is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal.

D035034 In re Frazier on Habeas Corpus
The petition is denied.

D035074 Gonzalez v. Superior Court of San Diego County/People
The petition is denied.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE**

March 3, 2000

D034171 In re Mendez on Habeas Corpus

The petition is denied.

D034826 In re Golden on Habeas Corpus

The petition is denied.

D033044 Morgan v. Alexander et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. McDonald, J.;
We Concur: Work, Acting P.J., Haller, J.

D034937 People v. Martinez

Appellant's motion to vacate dismissal and reinstate appeal is granted. The order of dismissal is vacated and the appeal is reinstated. Defendant's application for a late notice of appeal is granted. The notice of appeal filed January 12, 2000, is deemed to have been timely filed. The San Diego County Clerk of the superior court is directed to process the appeal under this appellate number D034937, within rule time dating from this order.